UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
November 24, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 76516/November 24, 2015

Admin. Proc. File No. 3-16912

In the Matter of the Application of

JOSEPH R. BUTLER

For Review of Disciplinary Action Taken by

FINRA

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BRIEF OF JOSEPH R. BUTLER, APPLICANT

This application, appeal, and brief, was filed as an appeal from the decision of FINRA in the matter of *Department of Enforcement v. Joseph R. Butler, Complaint No.: 2012032950101.* This appeal is based upon the assertion that the decision did not coincide and was not based upon the evidence that was presented through the hearing and review that occurred during the FINRA investigation. The applicant asserts that the decision was not based upon the evidence that was presented and therefore invalid. The fundamental question in this matter is whether an individual is permitted to distribute or give their property to a regulated individual and does such distributions or gifts violate FINRA Rule 2010.

I. HISTORY AND BACKGROUND

This matter is based upon a long term relationship between the applicant, Joseph R. Butler, and a neighbor, L[redacted] W[redacted] (LW). Mr. Butler has been in the financial industry

for 47 years without any complaint or any allegation of any type of misconduct whatsoever. Mr. Butler has worked in the insurance and financial industries and had a large list of clients who have been pleased with his services.

LW was a neighbor of Mr. Butler. She had a husband who had passed as well as a son who passed away. She did not have any other family members who provided any assistance or care to her in any manner whatsoever. Her family had very little, if any, contact with her on any occasion, holiday, birthday, or for any reason. LW has always been a very independent individual who always lived alone in her own house.

A friendship began between Mr. Butler and LW in mid-2006. Even though they had been neighbors for approximately 28 years, they began to communicate regularly at that time. In the latter part of 2007, LW began inquiring of Mr. Butler as to funding certificates of deposits into other investment vehicles. At the time, LW had a net worth consisting of approximately $450,000.00 in cash, $100,000.00 in annuity, $400,000.00 in personal property, a residence worth approximately $250,000.00, and annual income of approximately $88,000.00. Based upon the request of LW, Mr. Butler recommended a variable annuity for $453.000.00. Thereafter, he open this annuity on her behalf. It was undisputed based upon the testimony of witnesses provided by FINRA Enforcement that there is not any issue whatsoever about the suitability of this investment on behalf of LW by Mr. Butler. Thus, this investment was found to be suitable and appropriate by FINRA, and supported by Enforcement on transcript page 367. FINRA stated that there was not any Federal or State law, rule, ordinance or regulation, of any regulatory body violated as a result of these allegations.

Thereafter, Mr. Butler continued to assist LW and began to assist her more with her daily needs as time progressed. As time moved forward, Mr. Butler began speaking with LW daily, if not twice a day, to check on her or she would call him. The undisputed testimony was that Mr. Butler began to care for her needs including taking her to doctors' appointments, taking her to church, taking her to the grocery store, taking to the beauty parlor, recognizing her on her birthday and taking her to dinner, having her spend time with him during Christmas, taking her to lunches and dinner, and assisting her with maintaining her household and conducting those repairs. As stated, and absolutely must be emphasized, there was not anyone else in LW's life who in any way assisted her with any of these tasks who were either unable, or unwilling, to provide any such assistance to her. The fact that no one was willing to assist her or to spend time with her was fully known to LW. LW had two sisters who are also elderly. LW and those sisters did not particularly get along and she was estranged from her granddaughters after it was determined that the granddaughters were stealing from her.

Mr. Butler was fully known to these individuals and LW's family as the individual who was caring for her daily needs and they had his name and contact information. Nevertheless, none of the family members took any steps to help him or LW with any of these chores or any other similar needs. The contact person that was given to Mr. Butler in cause of an emergency for LW to contact the family, was a nephew in Indiana. During a trip, Mr. Butler contacted the nephew and went to see him at the nephew's house for a visit and they spent the afternoon together. During the visit, the nephew did not inquire as to LW in any manner and especially did not want to take any steps or provide any assistance for LW.

This nephew was fully aware of Mr. Butler and had his contact information. All of this evidence was undisputed during the FINRA investigation or the hearings.

Over time, Mr. Butler and LW became closer. He took her on vacation and a picture of their vacation was presented at RX-24 of the hearing. They also began to refer to each other as "mom" and "son". In any of the proceedings before FINRA, there were not any family members of LW to contradict any of the undisputed facts and evidence as presented above. Also, there was not any evidence presented by the individual who initiated the complaint, Abigail Parker, who was a non-family member and claimed to be a disinterested friend. It is not known why no one from LW's family testified or even the individual who sent the complaining letter.

During this time, even though LW needed "assistance", she always lived on her own and was very independent. Mr. Butler then began assisting her with paying her bills and on about April 16, 2009, she added Mr. Butler to her joint account.

As stated throughout this time, it is undisputed in the testimony that was presented that LW may have needed "assistance", but, she remained independent, lived alone, and took care of all of her daily needs. There was not any evidence either medical or any documentation or testimony that LW had any disability during this time.

Thereafter, the only medical reports that were introduced were three reports for 2011. In January, 2011, there was a notation in a report indicating '[redacted] but the only treatment suggested by the doctor was to reduce her salt intake. This questionable diagnosis and recommended treatment became extremely suspect yet there was not any other evidence presented as to the meaning of the diagnosis or unusual treatment recommended. As a result, Mr. Butler presented medical evidence in his case which is indicated at Exhibit RX-10, as to

medical definition of [redacted]. As indicated in that evidence, the term [redacted] has a wide spectrum of a medical diagnosis which range from [redacted] Mr. Butler objected and insisted many times for Enforcement to provide said evidence but Enforcement refused. The evidence is vital since Enforcement whole case revolves upon LW's [redacted] but Enforcement refused to provide testimony as to her [redacted]

Thereafter, in July, 2011, Mr. Butler again took LW to the same doctor, Dr. Anderson and there was not any mention of [redacted] whatsoever. This vital report cannot be over emphasized. As indicated in the hearing, and had been argued throughout the proceeding, for any type of argument as to any type of mental condition of LW, there must be some type of diagnosis from a doctor as to [redacted], the degree of that [redacted] and when it occurred. Other than the one word in one report, there has not been any medical evidence presented showing any [redacted] of LW prior to the end of 2011. This has been argued and objected to by Mr. Butler. If indeed there is an allegation as to any type of [redacted] by LW then some type of evidence must be presented by any report, any individual, any healthcare provider, or any family member, to indicate somehow of the [redacted] of LW in some manner other than one word in one report without any follow up which recommended a treatment of reducing salt intake. Without some type of supporting data, this one word diagnosis is simply insufficient especially in light of the fact that the next visit did not mention the same diagnosis. This

certainly questions whether the initial diagnosis and, one word, was incorrect or was of such a limited capacity as indicated by the medical evidence as presented by Mr. Butler that it did not apply. Nevertheless, and was indicated in the evidence, which is completely and unequivocally undisputed in the evidence that was provided, LW lived alone, cared for herself, and Mr. Butler would provide assistance to her, as a neighbor, friend, and the only individual who provided any care or attention to her in this world. In any of the hearings, there were not any type of medical professional testimony, there was not any family testimony, and even the complaining witness, did not in any way testify to controvert this undisputed testimony of Mr. Butler.

During this time, as Mr. Butler was assisting her with both her personal and financial needs, her accounts continued to grow on a substantial basis. As admitted by Mr. Butler, numerous checks were written on this joint account, in which he was added in April 16, 2009, long before any type of any diminished capacity is alleged. However, the evidence was absolutely undisputed that LW was fully aware and/or personally directed the payment of the checks. This evidence was absolutely uncontroverted by any evidence or witness. If LW was not aware of the checks or personally directed the payments to Mr. Butler, then provide some evidence otherwise. Any statements or beliefs of Enforcement otherwise are speculation and not based upon fact as presented at the hearing. Evidence was not presented.

The undisputed evidence and testimony is that Mr. Butler and LW had a very close relationship, that LW did not have anyone else in the world who provided any personal or any other type of assistance to her in any manner whatsoever, the relationship between Mr. Butler was such that she referred to him as "son" and he referred to her as "mom". He was fully known to family members of LW in case there was an emergency and they had his

name and contact information, the family was fully aware of the assistance that Mr. Butler was providing to LW, that the family did not object or in any way provide any assistance to LW, that LW lived on her own and was independent throughout this time, that there is not any medical evidence that LW had any type of mental incapacity prior to the end of 2011. Throughout this time, and based upon the assistance of Mr. Butler, money in LW's account kept growing substantially even after the checks that were written and that LW was fully informed of the checks which were written on the joint bank account with Mr. Butler. There was not any evidence that Mr. Butler had any restrictions on the use of this joint account. This evidence was undisputed.

As has been argued throughout these proceedings by Mr. Butler, one key question that needs to be answered by Enforcement with regard to these proceedings is if LW did not intend to give any funds to Mr. Butler, then who is it that Enforcement believe she should give her money either during her lifetime or after her passing. Notwithstanding that there was not any testimony whatsoever by anyone, any family member, the complaining individual, or anyone else that would dispute any type of the uncontroverted evidence, is undisputed that Mr. Butler was the only individual who provided any type of assistance to her in the world and that, as a result, why not simply help this one individual who is helping you especially since there is no one else. If there was anyone else, that individual surely would have testified at any of the proceedings before FINRA. There was not any such testimony or evidence presented.

This simple assertion that funds could be given to the one individual who provides any care or assistance to you has simply been objected to and disbelieved by FINRA as opposed to any evidence presented to the contrary. This lack of evidence and disbelief is

further supported by the fact that no one from FINRA, at any stage during the investigation, or hearing process, has actually spoken to LW to the best of their knowledge, and absolutely did not speak to her with regard to any allegation regarding the complaint or proceeding. This is supported by the testimony of the FINRA investigator, Joseph Tranchitella, which stated at page 370 of the hearing transcript:

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23 BY MR. TODD POUNDS

24 Q So basically Ms. Parker was going to

25 tell you when it was Ms. Parker's opinion that

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1 it was a good day for you to speak to

2 Ms. Williamson?

3 A Yes…

4 Q And when she told you that, she told

5 you that the day would be June 27th of 2012?

6 A she didn't say that ahead of time.

7 She called me that morning.

8 Q and said today is good—

9 A she said today may be a good day for

10 You speak to Ms. Williamson. I just spoke

11 To her. I think today may be a good day for

12 You to speak with her.

13 Q But you don't know if it was a good

Day or a bad day other than what Ms. Parker
Told you?
A Correct
Q And did you ask Ms. Williamson if
Indeed she was Ms. Williamson?
A I did not ask her to identify
Herself. I asked- when I asked Ms. Burton to
Put Ms. Williamson on the phone I assumed that
She would do that.
Q Okay. Well, so Ms. Parker wasn't
There when she said it was a good day?
A she wasn't present at

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Ms. Williamson's home as far as I know.
Q Okay. So we are talking about the
Day of June 27, 2012. Did you call Ms. Parker
Or did she call you?
A she called me.
Q And said today may be a good day?
A Right.
And then you called the house?
A Right.
Q And you spoke to the caregiver?

A Yes.

Q And the caregiver gave this

Individual, who you assume is Ms. Williamson,

The phone?

A Yes.

Q But you didn't ask if that was

Ms. Williamson or not?

A No.

Q So this conversation lasts all of

About 15 minutes?

A Yes.

Q Did you call again at some point?

No.

Did you bother to go to her house?

MR. NEWMAN: Objection

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THE WITNESS: You're referring to

Ms. Williamson's house?

By MR. BUTLER:

Q Yes.

A Did I bother to-

Yeah. Did you go over to her house?

A No.

8 Q Was there anything that would have

9 Prevented you from calling or going to her

10 House?

11 A No.

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1 PANELIST URBAN: One Question

2 Mr. Tranchitella, did you ever send any type of

3 letter to Ms. Williamson or to Ms. Parker

4 seeking to confirm the nature, or content or

5 whatever of the telephone conversation you had?

6 THE WITNESS: No

7 PANELIST URBAN: Thank you

Mr. Tranchitella did not do any further investigations with LW. There has not been any explanation or documentation as to why the important witnesses were not called or why the investigation failed to follow up on these important facts. This becomes vital as a result of the severity of the sanctions Mr. Butler is facing and is being recommended in the decision.

Even with the relaxed rules of evidence, Mr. Tranchitella did not knowingly speak to LW at any time nor did any other individual at FINRA. While this certainly calls into question why the individual who FINRA asserted to be the victim in this case was never interviewed, nor was the actual complaining witness interviewed or called to testify. It is undisputed that there was not any contrary evidence that LW was fully aware, authorized and /or suggested the checks which were written especially when her bank accounts kept

growing and there was no one else in the world, in her life, who provided any care or assistance to her in any manner. This even includes during the FINRA investigation or hearings. The failure to provide evidence from the alleged victim or any other witness is fatal to their proceedings. The findings otherwise are nothing more than speculation with some purpose and not based upon facts.

Under the decision of FINRA captioned "LW is hospitalized and her family intervenes", the decision provides in December, 2011, Mr. Butler realized he could no longer care for LW and placed her in an assisted living facility. This was after the checks in question were written. That decision goes on to state "however, soon afterwards LW's family members became involved and Mr. Butler's power of attorney was revoked. Mr. Butler had no further contact with LW after this point. LW was subsequently diagnosed with [redacted] and [redacted] and placed under 24 hour care". In making these statements in the decision, FINRA backs what Mr. Butler has been contending throughout this investigation. These statements confirm that indeed LW's family members "became involved" after her hospitalization and indicating that they were not involved at all prior to that time. Also, that LW was subsequently diagnosed with [redacted] and [redacted] and placed under 24 hour care, in the first part of 2012, again after the checks were written. The decision omits the fact that the family immediately withdrew LW from the assisted living facility, where she was placed by Mr. Butler and placed her back into her house under a much lower standard of living with a nurse rather than the care of an assisted living facility in which Mr. Butler had admitted her. The decision also omits Exhibit RX-18, which is an Affidavit prepared by LW's family revoking the power of attorney and stating that LW, as of February 1, 2012 is "of sound mind and body" in making the Affidavit. Unfortunately, shortly thereafter, Mr.

Butler received notice from the banks that LW's family had withdrawn all of her money out of her account.

These are the individuals that Enforcement claims should be given preferred treatment by LW. Also admitted in the testimony was that Mr. Butler, during his management of her funds, had made sure that she had sufficient funds to cover the cost of the assisted living facility and necessary care under a monthly basis with the annuity and management of her pension benefits. It is undisputed that he made sure there were sufficient funds to cover her personal and medical needs. The decision also references a Last Will and Testament and Power of Attorney in which LW decided to leave her estate to Mr. Butler, however, it is undisputed that the will was never used and it is further undisputed that the power of attorney was also not used except for the one occasion when Mr. Butler used the power of attorney to admit LW in the assisted living facility for her medical needs. That testimony was also overlooked and completely ignored. Also it was ignored that the Will was requested two years after LW had placed Mr. Butler's name or the joint account. The decision also states that there is an exception taken and that LW decided not to leave her property to her granddaughters, however, the granddaughters did not testify nor did any other family members testify which left the only undisputed testimony from Mr. Butler that indeed LW had been upset with her granddaughters who she found were stealing from her and did not bother to spend any time with her. These important facts become critical in that the decision favors these individuals who did not testify. Why was the decision based upon this non-existing evidence?

The primary reason why these facts become important is that for this case to proceed forward there must be a finding of the element of "unauthorized" for any transfer of property

to support the claim of conversion. To support this case that any of the checks which were written were "unauthorized" there must be some testimony from some witness or some documents that indeed limited Mr. Butler's right to use this joint account, or, somehow limited his check writing authority, and/or, that LW did not have full knowledge of the checks that were being written. There was not any evidence presented that any and all of the checks that were written were "unauthorized" or with the full knowledge, consent, or at the recommendation of LW. Without there being some evidence as to this vital component, the decision does not have the basis to support the finding.

II. FINRA INVESTIGATIONS

The decision then discusses FINRA's investigation. As stated above, FINRA's investigator cannot testify that he ever actually spoke to LW. There were not any family members to testify on her behalf at the proceeding. The underlying fact to support the decision is that basically FINRA did not believe Mr. Butler in his testimony. While the finder of fact may fully decide whether to accept or reject any testimony, the concern is that if Mr. Butler testimony is not accepted, then there is no testimony at all as the basis of the decision. It is improper for the decision maker to simply state that they do not believe the Respondent in his testimony when that is the testimony being relied upon and making the decision without any testimony otherwise. While it is their prerogative to not believe Mr. Butler, that leaves no evidence on the record to support any of the basis of the decision. Otherwise the evidence only states that checks were written on a joint account without any other type of evidentiary basis or reasoning, which is pure speculation. Such a basis of a finding is wholly improper.

As was stated throughout the investigation and hearings, FINRA absolutely does not believe, or take any credence or creditability to the fact, and it is their unwavering belief that there is not any possibility that LW would authorize checks for the only person in the world that does anything for her. They believe that LW cannot give her money to whoever she chooses. This is the basis of the decision, otherwise present some evidence to the contrary. There was none. As indicated by the undisputed testimony of Mr. Butler, he was the only one who cared for her in any capacity. FINRA seems to take an exception and look unfavorably upon the fact that he arranged for meals on wheels, reminded her to take her medications, took her to doctors' visits, took her on vacation, made sure he took her to dinner for her birthdays, spend time with him on holidays, maintained her housing, and would call once or twice a day to check on her well-being. Whereas, FINRA seems to look favorably and believe that her family should be somehow placed on an elevated status when none of her family cared for her, took care of her, contacted her, and when given the opportunity, stole from her. The fact that LW would decide to give sums to Mr. Butler is completely disbelieved by FINRA which is the basis of this decision, without evidence otherwise. The other fact that the decision overlooks is that even with all of the sums which were given to Mr. Butler, her bank accounts kept increasing and Mr. Butler made sure that she had adequate funds for her current and future care. To support FINRA's "belief" as opposed to representing any evidence, there was not any testimony or any documentation from any family member to contradict Mr. Butler's testimony. Even the complaining witness, who is not a family member, was not called to testify. The failure to call any family member to support their position that the family should be given some elevated status in receiving the funds of LW as well as the undisputed testimony that LW was never actually contacted or

interviewed with regard to the investigation or proceedings, surely indicates that the decision is based more on "belief" and "speculation" than the evidence that was presented. There is also not any explanation as to why the family members who knew of Mr. Butler, and had all of his contact information, would not take any steps to care for LW. Also, what is ignored, is when Mr. Butler, who made sure that LW had sufficient funds to care for her assisted living care and needs, why these family members withdrew her from that facility and put her back into the house and immediately closed her bank accounts that Mr. Butler helped to grow. In the decision, these are the individuals that FINRA is claiming need protection yet failed to call as witnesses at trial. The fact the LW would want to give sums to the only individual in this world who was caring for her in any capacity as opposed to any family members who did nothing for her cannot create a "belief" of wrongdoing to support the decision of FINRA. If indeed FINRA has any evidence to the contrary, then, it had multiple opportunities to present it in multiple stages in the proceeding. Its failure to present any such evidence suggest that it does not exist and supports the "missing witness rule" as argued by Mr. Butler. If FINRA then decides to ignore the testimony of Mr. Butler without any evidence, then, there is not any evidence as the basis of the proceeding.

III. THERE IS NO EVIDENCE THAT BUTLER CONVERTED LW'S FUNDS

The FINRA decision discusses the decision on how Mr. Butler allegedly converted LW's funds. The decision properly states that in order for there to be a finding of conversion that there must be a finding that any taking or exercise of ownership must be "unauthorized". As stated, this is not legally possible to be unauthorized since Mr. Butler was a joint owner of this account and his name was placed on the account by LW on April 16, 2009. There was not any evidence whatsoever that LW was in any way [redacted] or placed any

restrictions upon Mr. Butler at the time that he was placed on this account. Therefore, legally, it is not possible for the finding of "unauthorized" since as a co-owner he has full access to the account. There was absolutely no evidence presented otherwise. Furthermore, as indicated, there was not any testimony from, or any type of evidence whatsoever, from LW, any family member, any other individual, or the complaining individual, or anyone else, to in any way indicate that the checks which were written were not with the full knowledge and consent of LW. Mr. Butler gave uncontroverted testimony that she was fully aware of these check, and, there was not any evidence presented otherwise. Enforcement fully admitted in the hearing transcript on page 367 that any allegation against Mr. Butler did not violate any federal or state law, rule, ordinance, regulation or policy of any regulatory body as a result of these allegations. Furthermore, FINRA 2010 does not provide a reference to this matter.

Furthermore, Mr. Butler did not falsify an annuity beneficiary change as indicated in the decision. As indicated, Mr. Butler and LW had a very close relationship to the point where he referred to her as "mom" and she referred to him as "son". This relationship was indicated in Exhibit RX-22 in which LW referred to herself in a letter to Mr. Butler as "your other mom". Also, unknown to Mr. Butler, LW had taken out a life insurance policy in which Mr. Butler was listed as the beneficiary and he was indicated as "son" in the policy, which she signed on August 13, 2010. As stated, Mr. Butler was unaware of this policy until these matters arose. Exhibit RX-23. This policy was written long before there was any allegation of any diminished mental capacity. This cannot be ignored.

While it is admitted that Mr. Butler is not the biological "son" of LW, there was not any evidence presented by FINRA at any point of the hearing as to how this one designation in the form may have acted as any type of misrepresentation as to create a violation and a

sanction for a bar without any testimony from LW, any carrier or anyone else with regard to this matter. If LW is designating Mr. Butler as "son" in financial documents, such conduct should be viewed with some type of necessity as to how a misrepresentation is occurring, to whom it is occurring, and how either LW or some other carrier would have been harmed. This evidence was not presented. If the determination of "son" on the Hartford policy created some type of material misrepresentation, the evidence should have been presented. If an individual is limited as to who they can designate as a beneficiary, then present evidence. It was not.

IV. SANCTIONS

As indicated, Mr. Butler has been in the financial industry for 47 years without any type of complaint or any other type of allegation of misconduct. Mr. Butler befriended a neighbor who requested an annuity in which Mr. Butler obtained for her. The decision should have referenced that FINRA, in its determination, found that the annuity was entirely suitable for LW and there was not any question as to the appropriateness of the annuity. The reference to the annuity appears to attempt to be a shock factor rather than based upon the facts as presented in the proceeding. Furthermore, the undisputed fact that LW did not have anyone in the world that in any way provided any care for her in any type of manner whatsoever cannot simply be ignored, brushed aside, or penalized by FINRA. She was very independent and lived alone until Mr. Butler placed her in the assisted living facility in January 2012. LW's husband and son had passed away and she had little or no contact with any other family members. Furthermore, the undisputed testimony was that a nephew, who lived in Indiana was to be the contact person in case of an emergency which was given to Mr. Butler. Furthermore, Mr. Butler contacted the nephew and paid him a personal visit in a trip to

Indiana, and they spent an afternoon together. As indicated by Mr. Butler, this nephew did not inquire as to the health or well-being of LW in any manner nor did he offer any assistance to care for her. This was the closest person that she had in her life as her family. Furthermore, obviously, the family fully knew of Mr. Butler and had his contact information. These important factors cannot be ignored in making a decision. The undisputed testimony was that Mr. Butler was the only individual who checked on LW, made sure she was eating, spent the holidays together, took her to dinner on her birthday, made sure that she spent other holidays with him and his family, took her on vacation, called her daily, and help maintain her house, and was there to assist her in her daily needs both physically and emotionally. A decision favors the idea that, instead of giving funds to the only person in the world who does anything or cares for you, that money should be given to family that does not in any way care for you, doesn't provide any assistance to you, doesn't recognize you on any holidays or birthdays, doesn't even ask or inquire about their well-being, doesn't call to check on you in any capacity, and, in the undisputed testimony as to her granddaughters, were actively stealing from you. FINRA, throughout its investigation and decision, indicates that these individuals should be favored as "family".

The undisputed testimony was that Mr. Butler, regardless of the sums that were written with her knowledge and consent, kept her accounts growing. He also made sure that she had sufficient funds for her long term care and needs. It is undisputed, that in December, 2011, when there was the determination that she needed increased health care, that he place her into a assisted living facility which was the only time he used the power of attorney. Through his management, there were sufficient funds to provide for the cost of that assisted living facility. Unfortunately, the "family" that is favored by FINRA in which they believe

that LW should have given her funds to them, went to the assisted living facility and checked her out to put her back into her house under this supposed 24 hour care of a nurse, which, nevertheless, would be a much lower standard of medical care than at the assisted living facility. Mr. Butler then received a notice from the bank that the "favored family" had withdrawn all of her money out of her account of approximately $60,000. Also, as of February 1, 2012, the family terminated the power of attorney of Mr. Butler in which there was a notation that LW was "of sound mind and body" and terminated the power of attorney. These facts are undisputed and ignored in the decision.

Throughout the investigation and the hearings, Mr. Butler has pressed FINRA as to why there is a belief that it is so inconceivable that an individual would give funds to the only individual in the world who does anything for them especially when those funds are continuing to grow. Mr. Butler has asserted that this is not such an inconceivable concept and has continued to reject FINRA's position that money should go to a biological family who does nothing for her and did not care for her in any manner. Such a position simply does not make sense and, most importantly, there was not any evidence whatsoever presented at any of the hearing to support that position. If any member of the family was so important to LW there is absolutely no reason why none of them testified at the hearing. Even of greater concern is the fact that the FINRA investigator, Mr. Tranchitella, could not testify that he ever actually spoke to LW at all much less ask her any questions about the investigation.

Mr. Butler was terminated from his broker dealer after 19 years of faithful service (Woodbury Financial) because he was listed as a beneficiary on three contracts. One was his fiancé, two others were personal friends that owned a business of which he felt privileged to be able to help dissolve the company if they passed. One of these policies had lapsed 15

years prior to this investigation. However, no one died and funds were not paid. If being a beneficiary was disallowed, Mr. Butler would not have jeopardized a 47 year career which provided him a good life and hopefully a promising future. All taken away from him through speculation.

Mr. Butler has lost clients who believed, trusted, and depended on him for their security. Mr. Butler has lost license to do business in 7 states and had contracts terminated by 6 insurance companies all because of this investigation. Mr. Butler has lost renewal commissions that were part of his retirement plan that had built up during his tenure in the insurance industry. His broker dealer (Woodbury Financial) kept his deferred comp vested and unvested amounts, also personal contributions.

As a result, the Applicant respectfully requests that this matter be dismissed and Mr. Butler be reinstated with full rights and privileges with his license.

Respectfully submitted,

ALEXANDER & CLEAVER, P.A.

By: _____

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WORD COUNT CERTIFICATION

The undersigned certified that there are 6,477 words in this document pursuant to SEC Rules.

_____

TODD K. POUNDS, ESQ.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing BRIEF OF JOSEPH BUTLER, APPLICANT, was sent by Federal Express deliver, this 21st day of December, 2015 to: David F. Newman, Esq., Regional Counsel, FINRA District No. 9, Department of Enforcement, 1835 Market Street, Suite 1900, Philadelphia, PA 19103; Jeffery Pariser, Esq., FINRA District No. 9, Department of Enforcement, 1835 Market Street, Suite 1900, Philadelphia, PA 19103; Leo F. Orenstein, Esq., FINRA Department of Enforcement, 15200 Omega Drive, Third Floor, Rockville, MD 20850; and Ersilia Passaro, Esq., 1735 K Street, N.W., Washington DC 20006.

TODD K. POUNDS, ESQ.